

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DANIEL ROSENTHAL,

Plaintiff,

vs.

TIMOTHY POSTER, et al.,

Defendants.

Case No. 2:07-cv-01204-KJD-PAL

**REPORT OF FINDINGS AND
RECOMMENDATION**

This matter is before the court on defendant Marcia Hartman's failure to comply with this court's Order (Dkt. #42) and Order to Show Cause (Dkt. #44).

On November 24, 2008, the court granted attorney John T. Moran III's motion to withdraw as counsel of record and gave defendant Marcia Hartman until December 24, 2008 in which to retain counsel or file a notice with the court that she would be appearing in this matter *pro se*. See Dkt. #42. The Order directed the Clerk of the Court to serve defendant Marcia Hartman with a copy of the order at her last known address provided by her former counsel, and advised Ms. Hartman that her failure to timely comply with the order "may result in the imposition of sanctions, which may include a recommendation to the District Judge of dispositive sanctions." Defendant Marcia Hartman failed to either retain counsel or file a notice with the court that she will be appearing in this matter *pro se* and did not request an extension of time in which to comply with the court's Order.

On January 13, 2009, the court entered an Order to Show Cause (Dkt. #44) based on Ms. Hartman's failure to comply with the court's previous Order (Dkt. #42). The court directed Ms. Hartman to show cause in writing no later than January 27, 2009 why she had not complied with the court's Order (Dkt. #42). The Order to Show Cause (Dkt. #44) advised Ms. Hartman that failure to comply with the order "will result in the recommendation to the District Judge that [her] answer be

1 stricken and default judgment [be] entered against her.” Ms. Hartman has failed to file a response to
2 the Order to Show Cause (Dkt. #44), and she has not requested an extension of time in which to do so.
3 Ms. Hartman’s willful failure to comply with the court’s Orders is an abusive litigation practice that has
4 interfered with the court’s ability to hear this case, delayed litigation, disrupted the court’s timely
5 management of its docket, wasted judicial resources, and threatened the integrity of the court’s orders
6 and the orderly administration of justice. Sanctions less drastic than dismissal are unavailable because
7 Ms. Hartman has wilfully refused to comply with multiple court Orders and the Local Rules of Practice.

8 Accordingly,

9 **IT IS RECOMMENDED** that Defendant Marcia Hartman’s Answer be **STRICKEN** and
10 default judgment be **ENTERED** against her.

11 Dated this 4th day of February, 2009.

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13 
14 PEGGY A. LEEN
15 UNITED STATES MAGISTRATE JUDGE

16 **NOTICE**

17 These findings and recommendations are submitted to the United States District Judge assigned
18 to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days after being served
19 with these findings and recommendations, any party may file written objections with the court.
20 Pursuant to Local Rule of Practice (LR) IB 3-2(a), any party wishing to object to the findings and
21 recommendations of a magistrate judge shall file and serve *specific written objections* together with
22 points and authorities in support of those objections, within ten (10) days of the date of service of the
23 findings and recommendations. The document should be captioned “Objections to Magistrate Judge’s
24 Findings and Recommendations.” The parties are advised that failure to file objections within the
25 specified time may waive the right to appeal the District Court’s Order. Martinez v. Ylst, 951 F.2d
26 1153 (9th Cir. 1991). The points and authorities filed in support of the specific written objections are
27 subject to the page limitations found in LR 7-4.
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